

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

ANDRE THOMPSON, a single man; and  
BRYSON CHAPLIN, a single man,

Plaintiffs,

v.

CITY OF OLYMPIA, a municipal  
corporation and local government entity;  
and RYAN DONALD and "JANE DOE"  
DONALD, individually and the marital  
community comprised thereof,

Defendants.

No. 3:18-cv-05267-RBL

STIPULATION BY PARTIES AS TO  
WITNESSES / EXHIBITS /  
EVIDENTIARY ISSUES FOR TRIAL

Now come the parties in the above-captioned matter, and hereby stipulate to the authenticity and admissibility of the Exhibits set forth below. This stipulation will obviate the need to call a number of foundational witnesses during the trial.

| Name / Exhibit No.   | Relevant Witness  |
|--|---|
| Videos of evidence at scene of incident (Exhibit 106)                          | Ray Brady (will no longer need to testify for Plaintiffs) |
| Brady Report (Exhibit 291)   |   |
| (Exhibit 284) Mathew's notes with redactions                                   | Dave Mathews may no longer testify for Plaintiffs         |
| Transcript of Interview (Exhibit 269)  | James Ambrose   |
| Witness Interview Transcript – Ilya Bonel 5.21.15 (Exhibit A489) (Exhibit 290) | Ilya Bonel  |
| Witness Interview Transcript – John Lyell 5.21.15 (Exhibit A492) (Exhibit 283) | John Lyell  |

STIPULATION BY PARTIES AS TO WITNESSES /  
EXHIBITS / EVIDENTIARY ISSUES FOR TRIAL - 1  
3:18-cv-05267-RBL

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| Name / Exhibit No.   | Relevant Witness   |
|--|--|
| Witness Interview Transcript – Janice Lyell (Exhibit A491) (Exhibit 282)   | Janice Lyell   |
| Witness Interview Transcript – (Exhibit 293)<br>Lynda Sulenes 5.27.15 (Exhibit A493)                                 | Lynda Sulenes  |
| Witness Interview Transcript – James Stewart 5.21.15 (A494) (Exhibit 292)  | James Stewart  |
| Witness Interview Transcript – Mikki Brandell 5.21.15 (Exhibit A490) (Exhibit 271)                                   | Mikki Brandell   |
| Andre Thompson Blood Alcohol Report, Exhibit A53   | Chris Strode, St. Peter's witnesses (Will no longer need to testify for defense; Plaintiffs may still call Dr. Strode) |
| Bryson Chaplin Blood Alcohol Report, Exhibit A86   | Bruce Lincoln/St. Peter's Witnesses (will no longer need to testify for defense)                                       |
| All exhibits and report related to Barber (Exhibits 142, 143, 144, 145, 146, 147, 148, 149, 225, 226, 231, 233, 263) | Margaret Barber (Will not testify for Plaintiffs)  |
| All exhibits and report related to Weber (Exhibits 296 and 297)  | Sarah Weber (Will not testify for Plaintiffs)  |
| DOT animation Exhibit A473, A496   | Louis Cheng  |
| Dr. Lacy deposition photo, Exhibit A495  | Dr. Lacy   |
| Officer Hinrich's transcript of interview (Exhibit 264)  | Officer Hinrich will not testify for Plaintiffs  |
| Officer Sola's transcript of interview (Exhibit 265)   | Officer Sola will not testify for Plaintiffs   |
| Officer Seig's transcript of interview (Exhibit 266)   | Officer Seig will not testify for Plaintiffs   |
| Officer Frailey's transcript (Exhibit 267)   | Officer Frailey will not testify for Plaintiffs  |
| Officer Smith's transcript (Exhibit 268)   | Officer Smith will not testify for Plaintiffs  |
| Nurse Grib's report redacted (Exhibit 274)   | Nurse Grib will not testify for Plaintiffs   |
| Evergreen State Campus Security Officer Tyson Forrest's report (Exhibit 277)   | Tyson Forrest will not testify for Plaintiffs  |

The parties further stipulate that the jury will be informed of the following:

After May 21, 2015, the Thurston County Prosecutors' Office charged Bryson Chaplin and Andre Thompson each with two counts of Assault in the Second Degree with a

1 deadly weapon. Subject to ruling by the Court, the jury may be informed/instructed that  
2 Bryson Chaplin was charged with assault against Tammy Browne and theft.

3 Count 1 alleged that Bryson Chaplin and Andre Thompson assaulted Officer Ryan  
4 Donald with a deadly weapon at the event which occurred at the back of the patrol car. Count  
5 2 alleged that Bryson Chaplin and Andre Thompson assaulted Officer Ryan Donald with a  
6 deadly weapon at the event which occurred at the edge of the woods.

7 The jury was also advised if, after full and careful deliberation on these charges, the  
8 jury was not satisfied beyond a reasonable doubt that Bryson Chaplin and/or Andre  
9 Thompson were guilty of Assault in the Second Degree, the jury should consider whether  
10 Chaplin and/or Thompson were guilty of the lesser crime of Assault in the Third Degree on  
11 both counts.

12 The burden in this criminal case was beyond a reasonable doubt. Thus, in the  
13 Plaintiffs' criminal case, the State had to prove each element of each offense beyond a  
14 reasonable doubt. In this criminal case, Bryson Chaplin and Andre Thompson were presumed  
15 innocent. This presumption continues throughout the entire criminal trial unless during the  
16 jury's deliberations it found that it had been overcome by the evidence beyond a reasonable  
17 doubt. The jury in this criminal case was required to be unanimous as to the question of  
18 whether Bryson Chaplin were guilty or not guilty on all counts.

19 The jury in this criminal case was unable to reach a verdict on Assault in the Second  
20 Degree and the lesser crime of Assault in the Third Degree on Count 1 for Chaplin and  
21 Thompson, and a mistrial was declared.

22 The jury in this criminal case was unable to reach a verdict on Assault in the Second  
23 Degree for Chaplin and Thompson on Count 2. The jury did unanimously decide that Bryson  
24 Chaplin and Andre Thompson were guilty of the lesser crime of Assault in the Third Degree  
25 which is a felony in the State of Washington.

26 To convict Chaplin and Thompson of Assault in the Third Degree, the State had to  
27 prove beyond a reasonable doubt the following elements:

1. That on or about May 21, 2015, Chaplin or Thompson assaulted Ryan Donald;
2. That at the time of the assault, Ryan Donald was a law enforcement officer who was performing his duties; and
3. That the acts occurred in the State of Washington.

"Assault" was defined as:

An assault is an intentional touching or striking of another person that is harmful or offensive regardless of whether any physical injury is done to the person. A touching or striking is offensive if the touching or striking would offend an ordinary person who is not unduly sensitive.

An assault is also an act done with intent to inflict bodily injury upon another, tending but failing to accomplish it and accompanied with the apparent present ability to inflict the bodily injury if not prevented. It is not necessary that bodily injury be inflicted.

An assault is also an act done with the intent to create in another apprehension and fear of bodily injury, and which in fact creates in another a reasonable apprehension and imminent fear of bodily injury even though the actor did not actually intend to inflict bodily injury.

Subject to ruling by the Court, the jury in this trial may be informed/instructed that the jury in the criminal case further found Bryson Chaplin guilty of assault of Tammy Browne. Bryson Chaplin pled guilty to three counts of theft in the 3rd degree based on him stealing beer from Safeway.

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DATED: September 19, 2019

KEATING, BUCKLIN & McCORMACK, INC., P.S.

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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